

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

UNITED STATES OF AMERICA,

No. C 07-00510 SBA

Plaintiff,

ORDER

CHARLES GRADY MOYER, *et al.*

[Docket No. 42]

Defendants.

10 Before the Court are the parties' briefs in response to its Order dated August 12, 2008
11 [Docket No. 56], where the Court stayed its July 7, 2008 Sale Order [Docket No. 47], pending
12 disposition of defendant Charles Grady Moyer's Ex Parte Motion to Set Aside Order of Sale Entered
13 July 7, 2008 Based on Fraud or Mistake and in Violation of 26 U.S.C. § 6331(j) (the "Motion")
14 [Docket No. 50]. In its Order, the Court directed the parties to address whether the government
15 would realize any equity from a forced sale and whether Moyer should have a right of redemption.
16 Docket No. 56 at 20. Having reviewed the briefs, the Court requires further briefing. The California
17 State Board of Equalization (the "Board") and First American Title Insurance Company have taken
18 the position that if the Board yields its homestead priority to the government, then the government
19 will realize equity from a forced sale, under section 704.730 of the California Code of Civil
20 Procedure, which provides the amount available for a California homestead exemption.

21 The Court directs the parties to address whether a forced sale would be subject to
22 sections 701.620(a)(2) and/or 704.800 of the California Code of Civil Procedure, and if so:
23 (a) which if any lien holders are “executing judgment creditors” under section 704.800; and (b)
24 whether a forced sale would comply with these sections, given the two appraised values Moyer filed
25 with his Motion

26 The parties' briefs addressing these questions are due on December 10, 2007. Briefs shall
27 not exceed six pages. The Case Management Conference set for December 10, 2008, at 3:30 p.m. is
28 CONTINUED to December 17, 2008, at 3:45 p.m. The parties shall **meet and confer** prior to the

1 conference and shall prepare a joint Case Management Conference Statement which shall be filed no
2 later than ten (10) days prior to the Case Management Conference that complies with the Standing
3 Order for all Judges of the Northern District of California and the Standing Order of this Court.
4 Plaintiff(s) shall be responsible for filing the statement as well as for arranging the conference call.
5 All parties shall be on the line and shall call (510) 637-3559 at the above indicated date and time.
6

7 IT IS SO ORDERED.
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9 December 2, 2008

10 CLAUDIA WILKEN
11 For Saundra Brown Armstrong
12 United States District Judge
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